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Deputy City Attorneys
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San Francisco, California 94102-4682
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Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE CITY AND COUNTY OF SAN
FRANCISCO AND THE SAN
FRANCISCO DEPARTMENT OF
PUBLIC HEALTH,

Defendants.

Case No. C08-3247 CW

**DECLARATION OF TARA STEELEY
SUPPORTING SAN FRANCISCO'S
OPPOSITION TO PLAINTIFF'S
LETTER REQUEST FOR
ENLARGEMENT OF PAGE LIMIT
FOR REPLY MEMORANDUM**

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE COUNTY OF SANTA CLARA
AND THE SANTA CLARA COUNTY
PUBLIC HEALTH DEPARTMENT,

Defendants.

Case No. C08-3685 CW
(Related with above case)

1 I, Tara M. Steele, declare as follows:

2 I am a Deputy City Attorney for the City and County of San Francisco ("San Francisco"). I
3 am a member in good standing of the bar of this Court. I have personal knowledge of the matters
4 stated, and if called to testify, I can and will testify competently as to all matters set forth herein.

5 1. I participated in the negotiations with counsel for the California Restaurant
6 Association ("CRA") which resulted in the stipulation filed with this Court on July 3, 2008. Although
7 the parties contemplated and discussed that the same parties who submitted *amicus* briefs in the New
8 York menu labeling litigation would likely also file similar *amicus* briefs supporting San Francisco,
9 counsel for CRA at no time requested additional pages for CRA's reply brief.

10 2. On August 18, 2008, I received a voicemail message from Sarah Esmaili, counsel for
11 CRA, asking if San Francisco would stipulate to allowing CRA forty (40) pages for their reply brief
12 opposing San Francisco's 35-page opposition brief. This was the first time CRA contacted counsel
13 for San Francisco to request additional pages for their reply brief. After I returned Ms. Esmaili's call,
14 I spoke to Trent Norris, counsel for CRA. I asked Mr. Norris why CRA needed 40 pages for a reply
15 brief given that the opening and opposition briefs were only 35 pages long, and he was requesting 25
16 pages more than the limit provided under the local rules. Mr. Norris stated that they wanted
17 additional pages because of the number of pages filed by the *amici* supporting San Francisco. I stated
18 that I did not understand why the number of *pages* filed the *amici* was relevant given that the *amici*
19 did not make any new arguments that CRA did not anticipate when filing their opening brief or that
20 San Francisco did not also make in its opposition brief. Because the *amici* did not submit new
21 arguments, I explained that I thought CRA could respond to the arguments made by San Francisco
22 and its *amici* together in a reply brief of a reasonable length such as twenty (20) or twenty-five (25)
23 pages. Mr. Norris did not disagree or identify any new or unexpected arguments in the *amicus* briefs
24 that were not already addressed in CRA's moving papers or in San Francisco's opposition brief.

25 3. On August 19, 2008, I received an email from Nancy Milburn, counsel for CRA. The
26 email, addressed to myself and counsel for the County of Santa Clara, asked us both to stipulate to
27 allowing CRA to file a 45-page consolidated reply brief. Ms. Milburn did not offer any explanation
28

1 for why CRA needed such a long reply brief. Attached as Exhibit A is a true and correct copy of the
2 email I received from Ms. Milburn.

3 4. I responded to Ms. Milburn later that same day. In my response, I stated that "[g]iven
4 the identical legal issues and nearly identical factual issues presented in your motions, we do not see
5 (and you have not explained) why you need 45 pages for your consolidated reply brief. Accordingly,
6 San Francisco will not stipulate to allowing you to file a 45-page reply. However, we would be
7 willing to stipulate to 25 pages for your consolidated reply brief." Attached as Exhibit B is a true and
8 correct copy of the email I sent to Ms. Milburn on August 19, 2008. Counsel for CRA did not
9 respond to my email.

10 5. Counsel for the County of Santa Clara similarly refused to stipulate to allowing CRA
11 45-pages for their reply brief, citing the "the nearly-identical overlap of legal and factual issues
12 between the cases." Counsel for Santa Clara also offered to stipulate to 25 pages for CRA's
13 consolidated reply brief. Attached as Exhibit C is a true and correct copy of the email I received from
14 Counsel for the County of Santa Clara in response to Ms. Milburn's email.

15 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and
16 correct to the best of my knowledge.

17
18 Executed on August 20, 2008

19
20 By: _____/s/
Tara M. Steele

21 Attorney for Defendant
22 CITY AND COUNTY OF SAN FRANCISCO
23
24
25
26
27
28

EXHIBIT A



Nancy_Milburn@aporter.com

08/19/2008 09:22 AM

To tara.steeley@sfgov.org, francesca.gessner@sfgov.org,
tamara.lange@cco.sccgov.org,
miguel.marquez@cco.sccgov.org
cc Trent.Norris@aporter.com, Sarah.Esmaili@aporter.com
bcc

Subject CRA v. County of Santa Clara; CRA v. County of San Francisco

Greetings:

We are in receipt of Assistant County Counsel's Miguel Marquez's letter of yesterday advising the Court that the County of Santa Clara and the County of San Francisco have no objection to the filing by the California Restaurant Association of a consolidated reply brief in both cases on August 22, 2008. We appreciate your consideration in that matter. Please advise me today by 12:00 p.m. Pacific time whether the County of Santa Clara and the County of San Francisco will each agree to our filing a consolidated reply brief of no more than 45 pages. If defendants in both cases will not consent to this page limit request, we will asking the Court for that relief today. Also if defendants in the San Francisco case have decided whether they wish to appear and be heard at the August 28 hearing scheduled in the Santa Clara case and have the September 4 hearing vacated, pursuant to the Court's August 15, 2008 Order Concerning Hearing on Plaintiff's Motion for A Preliminary Injunction, please let us know.

EXHIBIT B



Tara Steele/CTYATT
08/19/2008 11:27 AM

To Nancy_Milburn@aporter.com

cc francesca.gessner@sfgov.org, Sarah.Esmaili@aporter.com,
tamara.lange@cco.sccgov.org, Trent.Norris@aporter.com,
Miguel.Marquez@cco.sccgov.org

bcc

Subject Re: CRA v. County of Santa Clara; CRA v. County of San Francisco

Nancy,

Given the identical legal issues and nearly identical factual issues presented in your motions, we do not see (and you have not explained) why you need 45 pages for your consolidated reply brief. Accordingly, San Francisco will not stipulate to allowing you to file a 45-page reply. However, we would be willing to stipulate to 25 pages for your consolidated reply brief.

San Francisco intends to participate in the hearing currently scheduled for August 28th.

Thanks,

Tara M. Steele, Deputy City Attorney
Office of the City Attorney
City and County of San Francisco
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Telephone 415-554-4655
Facsimile 415-554-4699
Tara.Steeley@sfgov.org

CONFIDENTIAL COMMUNICATION

This message is subject to an attorney-client privilege and/or attorney work product privilege and must not be disclosed. If you received this e-mail inadvertently, please permanently delete it.

Miguel.Marquez@cco.sccgov.org



Miguel.Marquez@cco.sccgov
.org

08/19/2008 10:39 AM

To Nancy_Milburn@aporter.com

cc francesca.gessner@sfgov.org, Sarah.Esmaili@aporter.com,
tamara.lange@cco.sccgov.org, tara.steeley@sfgov.org,
Trent.Norris@aporter.com

Subject Re: CRA v. County of Santa Clara; CRA v. County of San Francisco

The County of Santa Clara does not consent to a 45-page reply, but would be willing to consider something more than the 15-page limit set forth in Civil Local Rule 7-3 since CRA will be filing a consolidated reply. Given the nearly-identical overlap of legal and factual issues between the cases, we would be willing to stipulate to a 25-page limit on CRA's consolidated reply.

Miguel Márquez
Assistant County Counsel

Santa Clara County Counsel's Office
ph (408) 299-5936
fax (408) 292-7240

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Nancy_Milburn@aporter.com
m
To tara.steeley@sfgov.org, francesca.gessner@sfgov.org, tamara.lange@cco.sccgov.org,
miguel.marquez@cco.sccgov.org
08/19/2008 09:22 AM cc Trent.Norris@aporter.com, Sarah.Esmaili@aporter.com
Subj: CRA v. County of Santa Clara; CRA v. County of San Francisco
ct

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EXHIBIT C



Miguel.Marquez@cco.sccgov.org

08/19/2008 10:39 AM

To Nancy_Milburn@aporter.com

cc francesca.gessner@sfgov.org, Sarah.Esmaili@aporter.com, tamara.lange@cco.sccgov.org, tara.steeley@sfgov.org, Trent.Norris@aporter.com

bcc

Subject Re: CRA v. County of Santa Clara; CRA v. County of San Francisco

History:

✉ This message has been replied to.

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Miguel Márquez
Assistant County Counsel
Santa Clara County Counsel's Office
ph (408) 299-5936
fax (408) 292-7240

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Nancy_Milburn@aporter.com

To tara.steeley@sfgov.org, francesca.gessner@sfgov.org, tamara.lange@cco.sccgov.org, miguel.marquez@cco.sccgov.org

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